

1 Michael J. Gearin, WSBA # 20982
David C. Neu, WSBA # 33143
2 Brian T. Peterson, WSBA # 42088
K&L GATES LLP
925 Fourth Avenue, Suite 2900
3 Seattle, WA 98104-1158
(206) 623-7580
4
5
6
7

Honorable Christopher M. Alston
Chapter 11
Hearing Location: Rm. 7206
Hearing Date: September 16, 2016
Hearing Time: 9:30 a.m.

8 UNITED STATES BANKRUPTCY COURT
9 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

10 In re:
11 NORTHWEST TERRITORIAL MINT, LLC,
12 Debtor.
13
14

Case No. 16-11767-CMA
SUPPLEMENTAL SUBMISSION IN
SUPPORT OF MOTION FOR ORDER
GRANTING AUTHORITY TO RETURNED
STORED INVENTORY, OTHER CUSTOMER
OWNED INVENTORY AND COINING DIES

15 Mark Calvert (the “Trustee”), Chapter 11 Trustee for Northwest Territorial Mint, LLC
16 (“NWTM” or the “Debtor”), submits this supplemental submission in support of the Motion seeking
17 authority to return stored inventory. The Trustee respectfully states as follows:

18 **BACKGROUND**

19 On June 28, 2016, the Trustee filed his Motion for Order Granting Authority to Return
20 Stored Inventory, Other Customer Owned Inventory and Coining Dies (the “Motion”) (Dkt. 457).

21 The Trustee inventoried approximately \$1.1 million in gold and precious metals in the
22 possession of the Debtor that were segregated and specifically identified as property of particular
23 Storage Customers. A list of the gold and precious metals and identified Storage Customers is
24 attached as Exhibit A to the Declaration of Mark Calvert in Support of the Motion (Dkt. 458).
25 Under the Motion, the Trustee sought discretionary authority to return the Stored Inventory to
26 customers. After receiving authority from the Court to return the Stored Inventory, the Trustee

SUPPLEMENTAL SUBMISSION IN SUPPORT OF
MOTION FOR ORDER GRANTING AUTHORITY TO
RETURN STORED INVENTORY - 1

K:\2070561\00001\20892_MJG\20892P25GD

K&L GATES LLP
925 FOURTH AVENUE
SUITE 2900
SEATTLE, WASHINGTON 98104-1158
TELEPHONE: (206) 623-7580
FACSIMILE: (206) 623-7022

1 intended to reconcile the records of storage customers with those of the Debtor and to confirm the
2 identity and amounts of stored inventory for each customer before returning inventory to customers.
3 At the initial hearing on the Motion, the Court directed the Trustee to provide additional evidence
4 regarding the inventory conducted by the Trustee and the reconciliation of customer records prior to
5 ruling on the Motion. The Trustee has filed supplemental declarations of Brian T. Peterson [Dkt.
6 607], Jody Cannady [Dkt. 629], Christine Unwin [Dkt. 625], Erin Shear [Dkt. 609], Roger Overson
7 [Dkt.608], Derrin Tallman [Dkt. 622], Matthew Lee [Dkt. 623], and Jeffrey Goodfellow [Dkt. 624]
8 in support of the Motion. The Trustee also filed second supplemental declarations of Jody Cannady
9 [Dkt. 674] and Erin Shear [Dkt. 681]. The Cannady and Unwin supplemental declarations provide
10 the evidentiary background for the conduct of the inventory, the results of the inventory and
11 representative sample photographs of the storage inventory that is the subject of the Motion. The
12 Overson supplemental declaration provides the evidentiary background regarding the safes owned
13 by Mr. Overson which are located in the Debtor's Auburn facility. Since the initial hearing, the
14 Trustee and his staff conducted a detailed review of the customer records, proofs of claim filed by
15 Storage Customers and other records and information provided directly to the Trustee's staff by
16 customers relating to the ownership of the gold and precious metals that were segregated and marked
17 as property of Storage Customers. The Shear second supplemental Declaration contains the
18 summary of the review and reconciliation of Storage Customer records.

19 The Motion as originally filed referenced inventory located in the storage vault under the
20 name of Hui Zhang. The Trustee has determined that Mr. Zhang is a purchaser of inventory in the
21 ordinary course who leaves product in the warehouse to be dropped shipped pursuant to his
22 instructions. In accordance with Mr. Zhang's request, NWTM will retain Mr. Zhang's inventory and
23 continue the existing business practice with him regarding delivery of that inventory.

24 The Trustee's review and reconciliation of Storage Customer records reveals evidence that
25 many of the Storage Customers purchased or deposited inventory for storage that was not in the
26 possession of the Debtor when the Trustee took control of the business. The Trustee proposes to

SUPPLEMENTAL SUBMISSION IN SUPPORT OF
MOTION FOR ORDER GRANTING AUTHORITY TO
RETURN STORED INVENTORY - 2

K:\2070561\00001\20892_MJG\20892P25GD

K&L GATES LLP
925 FOURTH AVENUE
SUITE 2900
SEATTLE, WASHINGTON 98104-1158
TELEPHONE: (206) 623-7580
FACSIMILE: (206) 623-7022

1 return only the storage inventory that is in the possession of the estate to Storage Customers. The
2 review and reconciliation revealed that some inventory remained on the storage shelves identified to
3 Storage Customers notwithstanding the fact that the Debtor had purchased the stored inventory from
4 the customer. The Trustee has notified those customers that they are not entitled to a return of any
5 inventory. The review and reconciliation revealed inventory for one customer, Betty Lewis, that was
6 identified as Stored Inventory on the storage shelves for which there are no records of purchase or
7 delivery of that inventory. The Trustee has notified that customer that she will receive only the
8 inventory for which records of delivery have been provided. Attached hereto as Exhibit A is a
9 schedule comparing the original list of storage inventory found by the Trustee as submitted with the
10 original Motion with findings of the Trustee based on his review and reconciliation. Attached hereto
11 as Exhibit B is a final list of storage inventory that the Trustee proposes to return to Storage
12 Customers.

13
14 DATED this 9th day of September, 2016.

15 K&L GATES LLP

16
17 By /s/ Michael J. Gearin
18 Michael J. Gearin, WSBA #20982
19 David C. Neu, WSBA #33143
20 Brian T. Peterson, WSBA #42088
21 Attorneys for Mark Calvert, Chapter 11 Trustee
22
23
24
25
26

SUPPLEMENTAL SUBMISSION IN SUPPORT OF
MOTION FOR ORDER GRANTING AUTHORITY TO
RETURN STORED INVENTORY - 3

K:\2070561\00001\20892_MJG\20892P25GD

K&L GATES LLP
925 FOURTH AVENUE
SUITE 2900
SEATTLE, WASHINGTON 98104-1158
TELEPHONE: (206) 623-7580
FACSIMILE: (206) 623-7022

CERTIFICATE OF SERVICE

The undersigned declares as follows:

That she is a paralegal in the law firm of K&L Gates LLP, and on September 9, 2016, she caused the foregoing document to be filed electronically through the CM/ECF system which caused Registered Participants to be served by electronic means, as fully reflected on the Notice of Electronic Filing.

I declare under penalty of perjury under the laws of the State of Washington and the United States that the foregoing is true and correct.

Executed on the 9th day of September, 2016 at Seattle, Washington.

/s/ Denise A. Evans

Denise A. Evans

SUPPLEMENTAL SUBMISSION IN SUPPORT OF
MOTION FOR ORDER GRANTING AUTHORITY TO
RETURN STORED INVENTORY - 4

K:\2070561\00001\20892_MJG\20892P25GD

K&L GATES LLP
925 FOURTH AVENUE
SUITE 2900
SEATTLE, WASHINGTON 98104-1158
TELEPHONE: (206) 623-7580
FACSIMILE: (206) 623-7022